



CMD & Purchasing

**Anti-Lobbying and Procurement Ordinance
(Austin City Code Chapter 2-7, Article 6)**



Briefing Purpose?

Present information and answer any questions about the recent changes to the City's Anti-Lobbying and Procurement Ordinance.

Please – feel free to ask questions as the presentation moves along.



Why Revisions?

- Based on four years of experience in application of the ordinance to City purchasing.



Definitions

- **Agent** –a person authorized by a respondent to act for or in place of respondent, including a person acting at the request of respondent, a person acting with the knowledge and consent of a respondent, or a person acting with any arrangement, coordination, or direction between the person and the respondent.
- **Authorized Contact Person** –the person identified in a City solicitation as the contact regarding the solicitation, or the authorized contact person's designee during the course of the no-contact period.
- **Response** –a response to a solicitation.
- **Solicitation** –an opportunity to compete to conduct business with the City that requires City Council approval under City Charter Article VII Section 15 (Purchase Procedure).



Definitions -continued

- **Respondent** –a person responding to a City Solicitation including a bidder, a quoter, responder, or a proposer. The term also includes:
 - An owner, board member, officer, employee, contractor, subsidiary, joint enterprise, partnership, agent, lobbyist, or other representative of a respondent
 - A person or representative of a person that is involved in a joint venture with the respondent, or a subcontractor in connection with the respondent's response
 - A respondent who has withdrawn a response or who has had a response rejected or disqualified by the City.



Definitions -continued

- **Representation** –a communication related to a response to a council member, official, employee, or City representative that is intended to or that is reasonably likely to:
 - Provide information about the response
 - Advance the interests of the respondent
 - Discredit the response of any other respondent
 - Encourage the City to withdraw the solicitation
 - Encourage the City to reject all of the responses
 - Convey a complaint about a particular solicitation or
 - Directly or indirectly ask, influence, or persuade any City official, City employee, or body to favor or oppose, recommend or not recommend, vote for or against, consider or not consider, or take action or refrain from taking action on any vote, decision, or agenda item regarding the solicitation.



Applicability

- Procurement requiring Council approval (note exemptions)
- One entering into competitive purchasing with City voluntarily agrees to comply with ordinance.
- Campaign contributions are not considered representations.
- A solicitation includes without limitation, an invitation for bids, a request for proposals, a request for quotation, a request for qualifications, and a notice of funding availability.



Exemptions

- Automatically exempt City social service, cultural arts, City (federal and state) block grant, and the sale of rental property related solicitations from the contact restrictions that are set out in the Ordinance (Article 2-7-103(e)).
- Council has the ability to bring these types of solicitations under the provisions of the Ordinance on a case-by-case basis through an affirmative action.



Communications with Council/Staff

- Complaints that promote one respondent over another, disparage a respondent, or amend a response already received from a respondent will not be forwarded to Council.
- Nothing prohibits city employees or city officials from communicating as necessary for procedural questions.
- A representation excludes communication between a City of Austin attorney and a respondent's attorney.
- Allow for delegated authorities to approve communication between the bidder/proposer and City staff in addition to Authorized Contact Person when procurement are expedited in response to public health and safety issues.



Duration

- The no-contact period has been extended to ninety days (previously sixty days) for reissuance.
- For a single vendor award, the no-contact period shall expire when the first of the following occurs: contract is executed or solicitation is cancelled.
- For a multiple vendor award, the no-contact period shall expire when the last of the following occurs: all contracts are executed, negotiations have been fully terminated, or the ninetieth day after the solicitation is cancelled.



Reporting & Enforcement

- Reporting of violations requires notification of Authorized Contact Person in writing and ASAP.
- Respondent will be disqualified if found that he/she violated any provision of the ordinance.
- Respondent will be debarred if they violate the ordinance more than twice within a sixty month period.



Contacts:

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Designated Authorized Contact Person